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December 1, 1997

Via UPS Overnight

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Re: **MUR 4686**

Dear Mr. Turley:

Attached is the response of the New York State AFL-CIO answering the complaint filed by the National Republican Congressional Committee dated October 23, 1997 and numbered MUR 4686.

It is our understanding, according to the Description of Preliminary Procedures enclosed with your letter, that only those cases warranting the use of Commission resources are assigned to staff; all others are dismissed. We strongly urge that this complaint is without merit and insufficient on its face and therefore, does not warrant the use of Commission resources.

Please inform us of whether or not you intend to proceed.

Very truly yours,

COLLERAN, O'HARA & MILLS

By: Edward J. Groarke
EDWARD J. GROARKE

EJG:lmc
enclosure

cc: Alva E. Smith, Paralegal
Central Enforcement Docket

(File #3700-75)

99.04.391.0899

December 1, 1997

BEFORE THE FEDERAL ELECTION COMMISSION

National Republican Congressional Committee,

Complainant,

MUR 4686

New York State AFL-CIO,

Respondent.

The New York State AFL-CIO ("NYS AFL-CIO"), by and through its attorneys, Collieran, O'Hara & Mills, hereby responds to the complaint brought by the National Republican Congressional Committee ("NRCC"). The NYS AFL-CIO is located at 100 South Swan Street, Albany, NY 12210 and at 48 East 21st Street - 12th Floor, New York, NY 10010.

RESPONSE

1. Procedural: The NRCC Failed To Comply with Federal Regulations for a Sufficient Complaint:

Before addressing the specific allegations against it, the NYS AFL-CIO respectfully requests that the complaint brought by the NRCC, MUR 4686, be dismissed on the grounds that it fails to comply with the compliance procedures set forth in 11 CFR §111.4(b) (2 U.S.C. §§437G, 437D(A)). Specifically, the complaint:

1) does not clearly identify as a respondent each person or entity alleged to have committed a violation; for example, the caption of the complaint simply reads "Friends of Eric Vitaliano" and it does not mention the NYS AFL-CIO until halfway into the allegations (at which point the NRCC only discusses political communications made by the NYS AFL-CIO and does not identify them as respondents); 2) does not indicate which of its allegations are based upon personal

knowledge and which are based upon information and belief; and 3) does not present any documentation or affidavits to support its factual allegations.

Examples of Unsupported Factual Allegations:

The NRCC alleges that Eric Vitaliano has received "tens of thousands of dollars in undisclosed soft money contributions funneled directly from the general treasury funds of a labor organization". The NRCC offers absolutely no basis or documentation to support its assertion or to illustrate how it has become aware of the amount the NYS AFL-CIO has spent. This is a blatant and obvious attempt to "catch the eye" of the Commission. Although several thousand dollars have been spent on the mailings, as will be discussed in greater detail below, the NYS AFL-CIO may lawfully make these expenditures from its general treasury fund. As long as the expenditures were made for communications to the NYS AFL-CIO's restricted class, such a "contribution" is not a prohibited "expenditure". See, 2 U.S.C. §441(b).

The complaint also mentions expenditures on the NYS AFL-CIO Internet site. However, the cost to add the NYS AFL-CIO's Unity Newsletter to an already existing Internet site (the cost of the total site itself is fairly inexpensive) is so inconsequential that it cannot seriously be a consideration in determining "expenditures". For example, the cost to the NYS AFL-CIO to maintain the entire site, which offers much more than just the newsletter, is approximately \$250 - \$500 per month (\$3,000-\$5,000 annually). The cost of maintaining the Unity Newsletter online is about \$175 per month. Because the September 1997 newsletter, the issue referred to in the complaint, was only "online" for approximately one week, the total cost of Internet expenditures amounts to only \$45; a very small amount. In

addition, the Internet site was not created to "promote" Eric Vitaliano or "target" the general public. The site was and remains in existence to disseminate important information to the NYS AFL-CIO's affiliate's members and the Unity Newsletter was loaded onto the Internet site as part of a normal monthly routine.

Finally, the statement contained in the complaint that "it appears that the "Vote Vitaliano" mailings have also been disseminated beyond AFL-CIO members alone" is another example of the NRCC's failure to comply with federal regulations. The NRCC presents no evidence to indicate how they may know of this fact and they offer no documents to support this conclusion. The NYS AFL-CIO specifically denies that any communications were mailed to anyone other than the intended members of the locals. As will be addressed below, the only mailing lists available to the NYS AFL-CIO are the local union membership lists of its affiliates and it is unlikely that any more than a de minimis number of mailings were read by non-members.

2. Substantive: Response to the NRCC's Specific Allegations:

The following are the specifically questioned contributions mentioned in the NRCC complaint:

- (a) Internet information similar to campaign pieces of the Vitaliano campaign, and
- (b) Mailings which include express advocacy of Eric Vitaliano and are subject to FEC reporting and disclosure requirements.

The NRCC characterizes these mailings as "defamatory", but we can dismiss any claim of defamation first, because the mailings were not defamatory and second, because only the person allegedly injured has standing to sue. For a public figure

such as Vito Fossella, the standard for defamation is actual malice, and this is a tough standard to prove. New York Times v. Sullivan, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964).

a. The Internet Site:

The NYS AFL-CIO has contracted with an outside agency to create and maintain a site on the Internet dedicated solely to providing relevant information to the members of the affiliates of the NYS AFL-CIO. The cost of maintaining the entire site, most of which is information other than the Unity Newsletter (the pages on which the Vitaliano information appears), is inconsequential; roughly \$175 per month.

The Unity Newsletter is a print publication that is normally distributed by mail on a monthly basis to NYS AFL-CIO affiliates only. In order to provide cost effective access to the newsletter for all of the affiliate's individual members, this newsletter has recently been placed on the Internet, also on a monthly basis. However, accessing the newsletter is not as easy as it sounds; when logging onto the NYS AFL-CIO website, the user must first click through several menu options in order to finally reach the newsletter destination.

The September 1997 issue of Unity is the issue in question. It was loaded onto the site by the outside agency, as was the usual monthly routine. This particular issue, however, happened to contain information on Eric Vitaliano. It was not placed on the Internet to purposefully advocate for Eric Vitaliano. The newsletter contained other articles of general interest to its affiliates. The NYS AFL-CIO affirmatively denies any "targeting" of the general public when it allowed the newsletter to be loaded onto the website by the outside agency. In fact, the

NYS AFL-CIO immediately removed this issue from the website as soon as it became aware that its accessibility to the general public may be a potential violation of federal law. The newsletter in question was accessible for approximately one week and removed from the site the same day the NYS AFL-CIO became aware of a possible violation. Therefore, in effect, any access to the site by non-members was, most likely, de minimis. Indeed, the NRCC has not met its burden of establishing the pervasiveness of the message, if any, on the general public.

It is important to note here, that the print publication of Unity is designed to inform NYS AFL-CIO affiliates of information important to their organizations. In addition, this was not, as the NRCC contends, an advocacy piece targeting the general public. As the Commission can see from the exhibits attached to the NRCC's complaint, every issue of Unity since February 1997 is available. The NYS AFL-CIO did not create an "advocacy piece" for its Internet site endorsing Eric Vitaliano. The piece on Eric Vitaliano appeared in the September, 1997 Unity newsletter - a print publication for distribution to affiliates only. The NYS AFL-CIO was not aware at the time the issue was to appear online that information contained therein could possibly be a federal violation. When it did become aware, it immediately had the newsletter removed from the website.

Finally, the NYS AFL-CIO denies that the piece written on Eric Vitaliano in Unity was "suspiciously similar" to the Vitaliano campaign. The piece was written entirely by Mario Cilento, a NYS AFL-CIO public relations director. In fact, this is another example of the NRCC failing to provide documentation and evidence to support its allegations.

b. The Mailings:

As discussed above, the NRCC does not have standing to claim that mailings by the NYS AFL-CIO were defamatory; so this portion of the complaint will not be addressed.

With respect to the actual expenditures on the mailings, the NRCC has misstated the law in claiming that a labor organization may not use general treasury funds to endorse a political candidate. It may, in fact, use general treasury funds in this manner, even where the advocacy is express, as long as such funds are used solely for communications with the labor organization's restricted class.

2 U.S.C. §441b(b)(2)(A); 11 CFR §114.8(h). The relevant section reads:

For purposes of this section and section 79l(h) of Title 15, the term 'contribution or expenditure' ...shall not include (A) communications ...by a labor organization to its members and their families on any subject.

It is, however, correct to state that communications to a labor organization's restricted class that contain "express advocacy" must be reported to the FEC if the cost of such communications exceeds \$2000. 11 C.F.R. §104.6(b). The NYS AFL-CIO is currently in the process of completing the necessary forms in accordance with 11 CFR §104.6(b). Such forms will be completed during the calendar year in which the expenditures were made (1997). Since most of the expense was incurred in October, the filing date for the post-report is not until December 1997. The NYS AFL-CIO is in compliance with 11 C.F.R §104.6(b).

Finally, the mailings which are the subject of the NRCC's complaint (attached hereto and also included with the NRCC's complaint) were mailed only to the local members of the affiliates of the NYS AFL-CIO. The NYS AFL-CIO denies

that it communicated with anyone but the local union members of their affiliated labor organization and the NRCC offers no substantive documentation to support anything to the contrary. The NYS AFL-CIO's obtained its mailing lists through "COPE" - Committee on Political Education. The lists are compilations of the names and addresses of affiliate's local members. The source and methods of how COPE obtains these lists is attached. Indeed, these are the only lists that the NYS AFL-CIO used for their mailings.

It is true that the mailings contain terms of express advocacy. However, if anyone outside the labor organization's restricted class did receive these mailings, it was entirely inadvertent and certainly de minimis. As the Commission is aware, de minimis communications with the general public is permitted. 11 C.F.R. § 114.1(c)(6). The NYS AFL-CIO strongly asserts that it has not targeted the general public for such mailings.

In summary, the mailings were sent only to the NYS AFL-CIO's restricted class. Those mailings which contained express advocacy, (where expenditures exceeded \$2,000) require proper reporting with the FEC and the NYS AFL-CIO will timely comply. In addition, there was no intent to target the general public by placing a monthly print publication online. The September 1997 issue of Unity was placed online as part of a monthly routine and was removed as soon as the NYS AFL-CIO became aware that its presence online may present a problem. Any access to the general public was de minimis, as was the cost.

PRAYER FOR DISMISSAL OF THE COMPLAINT

In light of the information hereby provided, the NYS AFL-CIO respectfully requests that the complaint brought by the NRCC, MUR 4686, be immediately

dismissed without any further investigation. The NRCC has failed to bring a valid complaint in compliance with Federal Regulation §111.4. In addition, there has been no wrongdoing, intentional or otherwise, on the part of the NYS AFL-CIO and therefore, the allegations brought by the NRCC are without merit.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully Submitted,
COLLERAN, O'HARA & MILLS
Attorneys for NYS AFL-CIO

By: Edward J. Groarke
EDWARD GROARKE, ESQ.

Debbie Shannon, Law Clerk

MEMBERSHIP UPDATES

The two sources for obtaining membership lists are from the international union or locals within the state. These can be applied either electronically (tape or disk) or manually keypunched (new or corrected printout). Please be aware that the most accurate data will come from the local. International data can be a year old by the time it is offered to the states.

The first step to begin the membership update process is to request an international/local count from National COPE. It can be ordered in two forms; a "raw" count from largest local to smallest, or straight international/local. The next two pages are samples of these counts. "Prioritizing Updates," which follows the sample counts, outlines successive steps in the process.

The largest locals are the best bets for electronic updates as they are more likely to have automated membership lists. Smaller locals without electronic capabilities will need to be manually keypunched from new or corrected printouts. Data from participating international unions is collected by National COPE and offered quarterly to the states. Each of these update procedures will be discussed in greater detail in this section. Sample letters to request updated lists or disks from the local have been included.

A sample tracking sheet is provided at the end of this section. It should be filled in as each update is submitted to National COPE. This will not only help you keep track of your updates, but will assist you in making exclusions from the international file updates ("Suspense File").

Please note, each record needs to have at least a valid zip code, first and last name in order to be added to the COPE file.

ELECTRONIC UPDATES

Updating local membership electronically is the fastest, most accurate and most economical method for larger locals. These locals usually have 500 or more members. However, locals of 250 or more are often computerized. A form letter can be sent to each local with a follow up call to obtain their membership on either disk or tape--far less time consuming than manual updating. The following pages are forms for disk and tape submissions. A record layout as well as the other information on the forms must accompany a disk or a tape. It is impossible to process the update without it.

If a disk is sent in an ASCII fixed format file, the update can take place directly in the Computer Systems and Services Department without a conversion and at no cost to the state fed. Data can be exported to an ASCII fixed length file, ASCII text file or straight text file easily by consulting the software manual. Additional technical support can be supplied by National COPE (see "RESOURCE PERSONNEL").

If the disk is not received in an ASCII file, it will be sent out for conversion. It is important to put as many records as possible on each disk submitted as this will reduce the conversion charge.

Tapes should be submitted to National COPE in an ASCII format or EBCDIC 9 track, 6250 or 1600 BPI, and a copy of the record layout should be included. These tapes are processed by the Computer Systems and Services Department at no cost to the state fed.

If more than one local is submitted on tape or disk, there must be a field included in each record for the international and local number, or each local must be in a separate file. Similarly, if retirees, as well as active members, are submitted, there must be a field in each record with a retiree designation.

MANUAL UPDATES

Updating local membership manually and submission for keypunching is the next best method of obtaining a current membership list. National COPE will supply printed lists upon request from the state fed or international union. The following page is the COPE "Placemat" explaining the manual update procedure (multiple copies can be obtained from National COPE). Also, in this section is a sample instruction form sent to the keypunch firm from National COPE. A copy of this form is sent to the state fed and region director at the time the list is submitted for keypunching.

Please note, it is important not to cross through the keyline when correcting a record. This entry identifies the record and without it no action can be taken. All new additions can be submitted on a separate sheet accompanying the corrected list.

SUSPENSE FILE UPDATES

Suspense files are created with International Union files submitted directly to National COPE. These files are sorted by state and passed through the PostalSoft program to add zip +4. PostalSoft also standardizes and correct addresses (see "MATCHES/ENHANCEMENTS"). The surname table is then applied to provide Ethnicity codes (see "TABLE FILES"). This information is offered to the state feds on a quarterly basis and are "suspended" until National COPE receives instructions from the state feds.

Be sure to "exclude" or "except" any locals updated electronically or manually when ordering from the suspense file. Any local updated by the state over the previous year will generally be more current than an international submission. International file submissions may contain "recent" updated information six months to a year old.

The following pages are samples of the information sent from National COPE to the state feds for suspense file updates:

1. Memo from National COPE noting the unique characteristics of the current suspense file.
2. Suspense file form instructions.
3. Form for ordering from the suspense file.
4. International tracking sheet: shows the number of nationwide records received from the International, the date it was received at National COPE and the date the suspense file was created.
5. Counts by international for the state with a breakdown of active and retired.
6. Counts by international/local for the state.

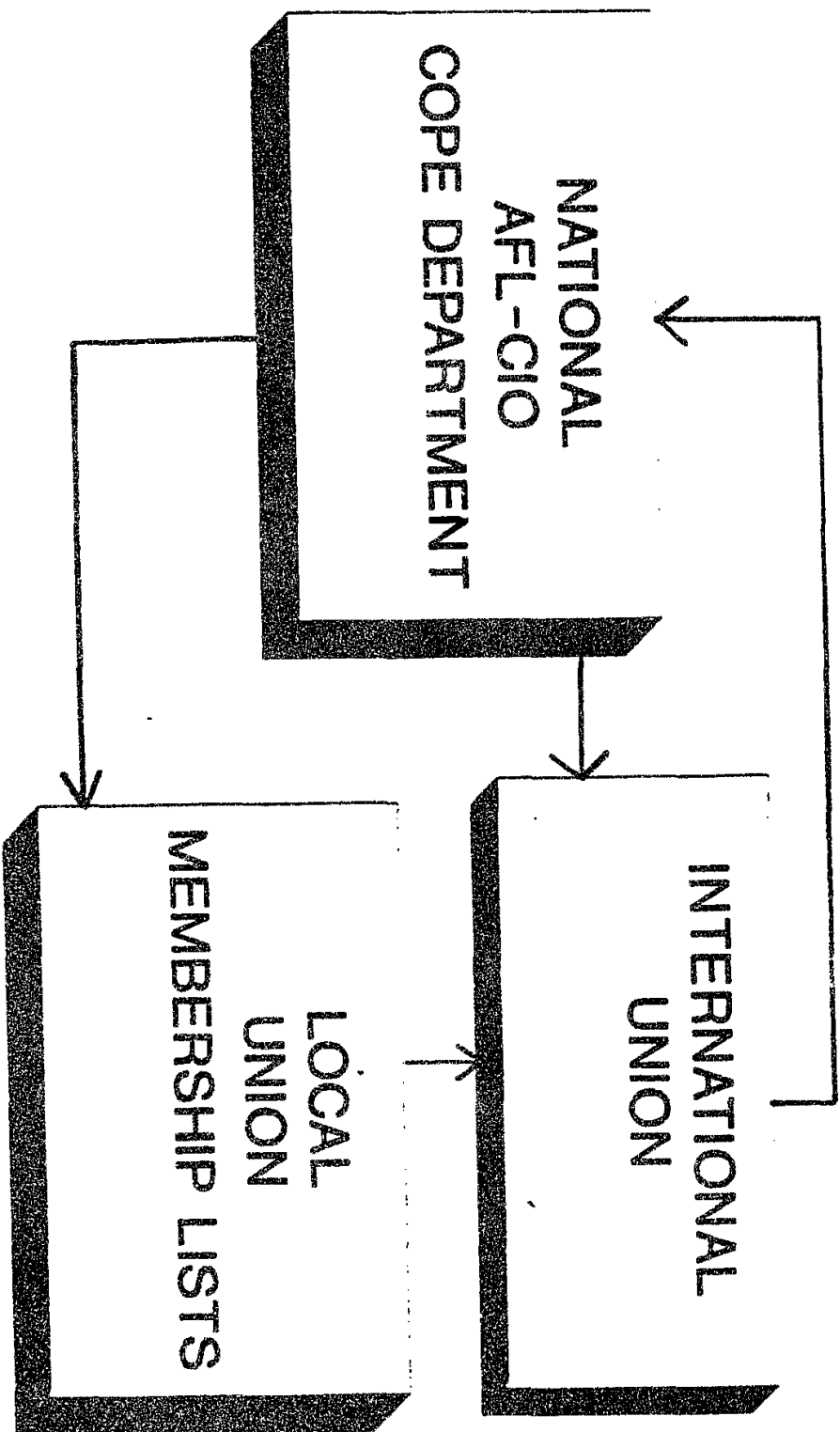
The last page is a list of the internationals who submitted membership tapes in the 1993/1994 election cycle.

It is important that the suspense file request is returned by the destroy date noted on the form. Otherwise, suspense data will be automatically applied to the state COPE file.

**COPE REGULATIONS
FOR GUARANTEEING THE SECURITY OF
INTERNATIONAL UNION MEMBERSHIP LISTS**

1. All membership lists will be sent directly to National COPE and will be processed under direct supervision of COPE.
2. All lists will be converted to a standard format, which will remain in the possession of COPE at all times.
3. Requests for output must be authorized in writing by the president or secretary-treasurer of the state body or designated personnel for whom there is written authorization on file at National COPE. Requests from an international union for its membership must be submitted in writing and signed by the president or secretary-treasurer. All requests must be individually approved by National COPE.
4. International or local unions can request their membership only.
5. Labels will be supplied only for the following purposes:
 - a. To mail an authorized state body labor paper
 - b. To mail appropriate literature publicizing endorsed COPE candidates, referendums or legislative issues.
 - c. Other approved COPE activities, i.e., updating, polling, etc.
6. Printouts supplied for voters identification, registration, canvassing and get-out-the-vote activities will be distributed to authorized personnel only.
7. Printouts and labels that carry international information will be coded in order not to compromise the security of the list.
8. The COPE membership files cannot be used for fundraisers or boycotts.
9. Note that by law we are only allowed to contact union members.
10. The state AFL-CIOs or central labor councils are not to maintain their membership list in their computers. This would be a violation of the AFL-CIO policy and agreement with international unions, which could jeopardize the COPE file nationwide.

AFL-CIO COPE LISTS FLOW CHART



Who will protect our retirement?

ON NOVEMBER 1TH THERE WILL BE A SPECIAL ELECTION FOR CONGRESS WHO CAN WE COUNT ON TO PROTECT WORKING FAMILIES' RETIREMENT?

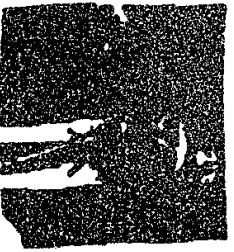
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Albany, NY 12210

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THE VILLAGERS are eye in Congress to protect Social Security and Medicare against their budget's attempts to weaken or destroy them.

Villagers will protect pensions by voting against allowing corporations to borrow your pension money for risky mergers and acquisitions. Villagers has been a leader in the fight to ensure that public employees will be able to receive with a decent pension.

For fifteen years in the State Assembly, Elio Villagers has stood up for working families. Now he's ready to stand up for us in Congress, fighting for good schools, a strong local economy, and safe pensions. That's why the New York State AFL-CIO has endorsed Elio Villagers for Congress.



THE VILLAGERS will be a supporter of Social Security and the integrity of existing Medicare and Social Security in order to give a huge tax break to the rich.

Villagers has dedicated to any whether or not he will allow corporations to raid pension funds. Villagers has taken more actions to protect public employees' pensions.



ROBERT EERLOT R. C044
BROOKLYN NY 11209

For more information, call 1-800-444-4444

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ALBANY, NY

Witnessing will work to bring our little 27th witnesses
Federal officers to replace Commissioner in NYC
across, by surprise using the Personnel file for
reducing American's Service Act.

Fossella's dad Robert Clough wants to kill the school bill. That will cost our kids \$270 million they would help rebuild NYC schools. Fossella has refused to support the school bill.

That's why the New York State AFL-CIO has endorsed the Vietnam War Conscription.

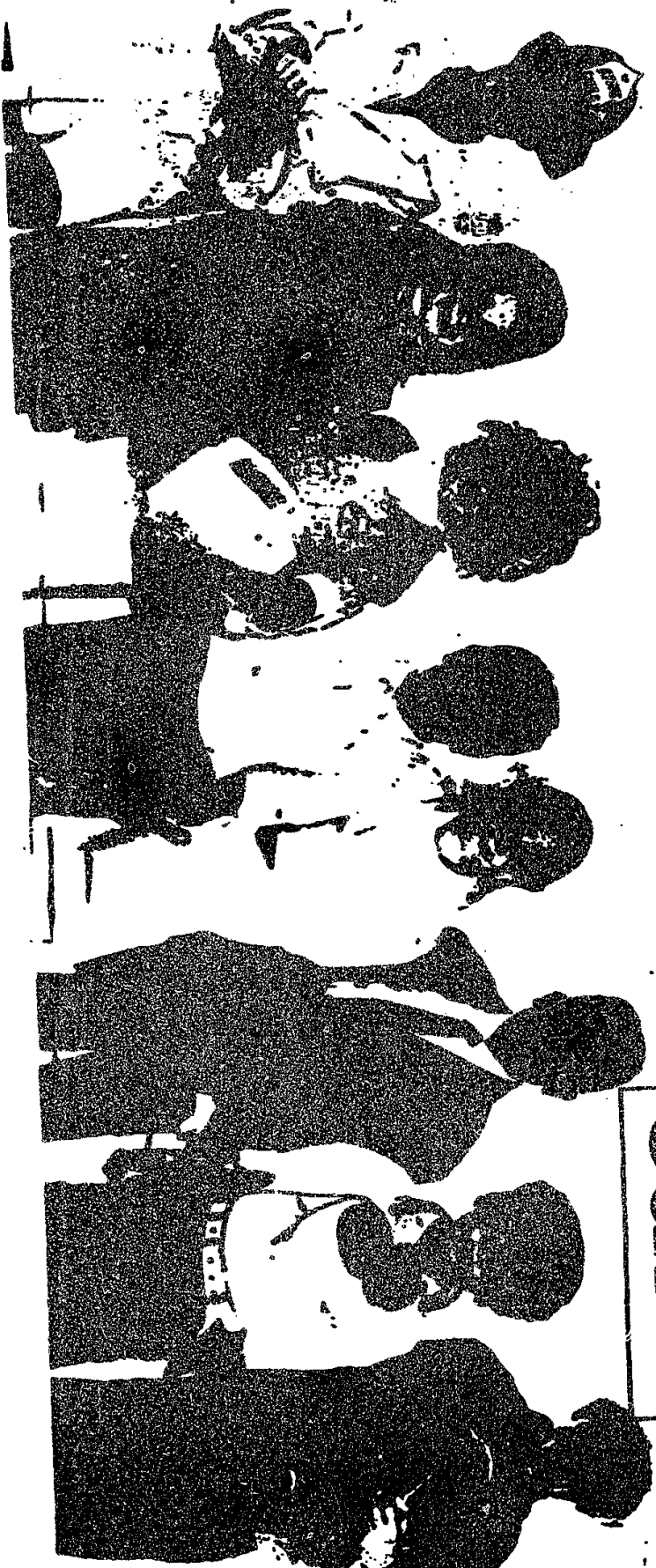
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এম.সি.এস. প্রোগ্রামের নিম্নলিখিত, ফলাফল

BROOKLYN NY 11226

If they don't *Learn,*

they won't

earn

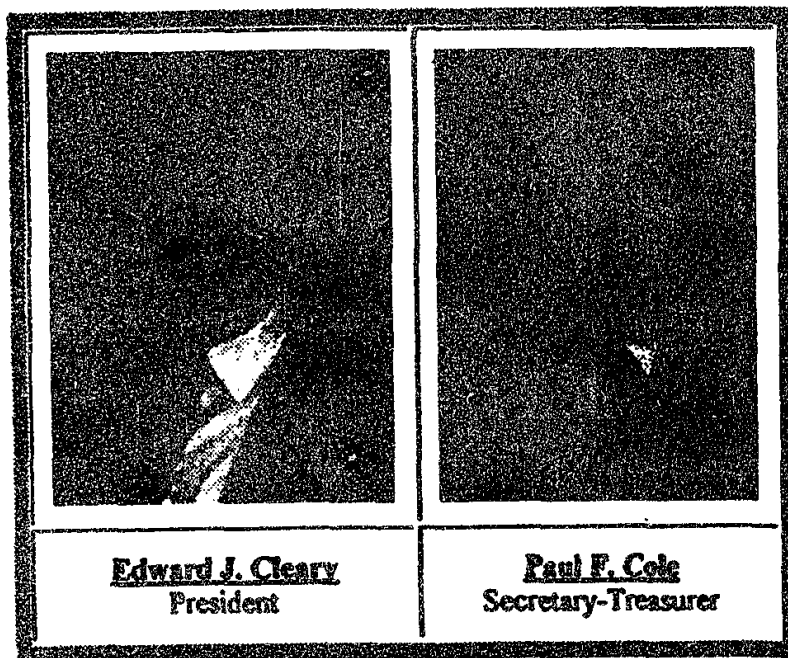




The New York State

AFL - CIO

*Helping working families achieve
a better life.*



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September 1997 Unity Newsletter

- ☐ Don't Be Conned - Constitutional Convention Is A Bad Idea For Working People
- ☐ Presidents' Perspective
- ☐ Labor "Relies" For Vitaliano For Congress
- ☐ Eric Vitaliano Will Work For Working People
- ☐ NAFTA's Damage To New York
- ☐ "Prospering America"
- ☐ Congress Battle Over ISTEALooms
- ☐ Labor's Day In New York City
- ☐ "Taking Credit For Jobs Well Done"

**New York State AFL-CIO
13th Annual Labor Recognition
Dinner/Dance
Thursday, December 4, 1997
Sheraton New York Hotel and Towers
For further information contact Marion Nieves
at:
(212) 777-6040.**

July-August 1997 Unity

May-June 1997 Unity

April 1997 Unity

March 1997 Unity

February 1997 Unity

09-04-391-0920

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affairs@nysaflcio.org

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Labor "Rallies" For Vitaliano For Congress

On September 30th, hundreds of union members turned out for Labor's Kick-Off Rally in support of Eric Vitaliano's candidacy for Congress.

With 73,000 union households in the 13th Congressional District, covering Staten Island and South Brooklyn, the labor movement's voice will be heard on Election Day as voters choose between Assemblyman Eric Vitaliano (D) and Vito Fosella (R).

The rally jump-started labor's efforts in support of Assemblyman Vitaliano. In addition to attending rallies and various get-out-the-vote events, labor volunteers will participate in phone-bank operations and a "Labor-to-Neighbor" program where union members visit households of fellow union members.

At the rally, Mr. Vitaliano stressed his opposition to legislation giving President Clinton "fast-track" authority to extend and expand free trade agreements with other countries.

The AFL-CIO strongly opposes "fast-track" legislation. Stated Vitaliano, "One way America will prosper is not sending jobs out of America to countries outside of America. It is time that we stood up for American workers and American jobs, and that means saying no to fast-tracking more jobs out of America."

For further information on the Labor-To-Neighbor program, or to become a volunteer, contact Amy Ritchie or Mike Arendt at (718) 447-4201.

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Eric Vitaliano Will Work For Working People

With Susan Molinari no longer in Congress, working families will choose her replacement on November 4th. Eric Vitaliano, a 49-year old Democratic State Assemblyman with 15 years experience, has stood up for working families with rare energy and commitment. Vitaliano has a 100% pro-labor voting record. His opponent, 32-year old Republican City Councilman Vito Fossella, has three years experience in the City Council. Fossella, a political extremist, plans to vote with Newt Gingrich on major issues. After carefully examining their records, the New York State AFL-CIO believes Eric Vitaliano will serve working families the best. You decide. Then vote on November 4th.

Pension & Social Security

- ☐ Vitaliano will fight in Congress to protect Social Security and Medicare against Newt Gingrich's attempts to weaken or destroy them.
- ☐ Eric Vitaliano will protect pensions by voting against allowing corporations to borrow your pension money for risky mergers and acquisitions.
- ☐ Eric Vitaliano has been a leader in the fight to ensure that public employees be able to retire with a decent pension.[1]

[1] A.8082, 1992

Economy

- ☐ Vitaliano voted for "prevailing wage" laws that require companies doing business with the city to pay decent wages.[1]
- ☐ Eric Vitaliano fought to save jobs when IBM wanted to move hundreds of local jobs to upstate New York. He's committed to a strong local economy with good

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jobs at good wages.[2]

[1] S.1541, A.1777, Ch. 141.

[2] Ganet News Service, June 15, 1995

Education

- Vitaliano delivered a "record-breaking" amount of aid to our schools so our kids can get good jobs.[1]
- Eric Vitaliano will work to bring our kids 278 million federal dollars to relieve overcrowding in NYC schools, by supporting the Partnership for Rebuilding America's Schools Act.[2]

[1] Staten Island Advance, 7/30/97

[2] Staten Island Advance, 9/2/97

For fifteen years in the State Assembly, Eric Vitaliano has stood up for working families. Now he's ready to stand up for us in Congress, fighting for good schools, a strong local economy, and safe pensions. On November 4th, make your vote count.

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DON'T BE CONNED - CONSTITUTIONAL CONVENTION IS A BAD IDEA FOR WORKING PEOPLE *Vote No! on November 4th*

"Shall there be a convention to revise the constitution and amend the same?" A vote in support of that simple question could negatively alter the face of New York State for generations to come. The New York State Constitution requires a statewide referendum every 20 years, asking voters whether a Convention to revise the New York State Constitution should be held. This November, voters will be asked to answer the aforementioned question. And their answer should be a resounding No!

If passed, convention delegates, who are elected three per state senate district, in addition to 15 statewide, would be elected in 1998. Then, just before the turn of the century, in 1999, a Constitutional Convention would be held.

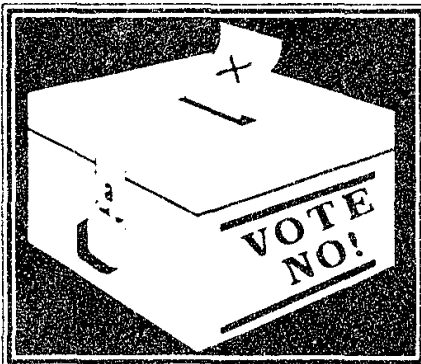
Many voters are unaware that New York State has its own constitution that provides additional rights and safeguards for its citizens. It guarantees money for public education, ensures that the needy receive assistance and protects our environment. It provides for collective bargaining, pension protections and other worker's rights, and much more. If a convention takes place, it would put any and all issues on the table for debate, regardless of the needs and concerns of the taxpayers of this state.

New York has held eight conventions in the past. The last, in 1967, proposed such disastrous changes that the amendments were rejected by a 3 to 1 margin. The horrendous result in 1967 led New Yorkers to decisively reject the idea of holding another constitutional convention the last time this question was put on the ballot in November of 1977.

The choice this November by the citizens of this state must be carefully considered. While there are many problems facing New York State, a constitutional convention is not the way to solve them. The only guarantee of a convention is that it will cost \$50 million of our hard-earned tax dollars, as cited by countless research studies, including those authored by the New York State Senate and the Fiscal

Policy Institute. There are a number of programs that could use that money now to do things like: buy hundreds of thousands of school-books; purchase computers for thousands of classrooms; create new jobs or ensure that we have clean water to drink and air to breathe.

As we saw in 1967, the constitutional convention is the exclusive province of the insiders. The delegate selection rules are stacked against the average citizen. The same insiders will be running the convention and controlling the process. Only those with enough wealth or political connections will be able to run and win. They will spend millions of additional dollars so that they can control the convention process.



The result is that this will not be a "people's convention" where citizens have real input. Instead of real reform, our \$50 million will likely produce tinkering that benefits the powerful, not average New Yorkers. In fact, the last convention in 1967 failed to change one single law, statute, provision or process. Yet the hard-earned tax dollars of that generation of New Yorkers was lost forever.

For the last several years, groups such as the League of Women Voters and Citizen Action of New York have called for reforms to the delegate selection process to level the playing field. If supporters of a convention were serious about average citizens having input, they would have made sure that these changes were put in place first.

A Constitutional Convention is a multi-year process with no guarantees except for the price tag. New York has urgent problems which need to be addressed now. We can't afford to wait until 1999. In fact, New York State already has an amendment process in place that has been used 93 times in the last 50 years to amend the constitution - a process that does not involve spending millions of dollars or force us to wait.

The choice for all New Yorkers on November 4th should be clear. It should be to Vote No on a constitutional convention.

PRESIDENT'S Perspective

Edward J. Cleary, President
New York State AFL-CIO



Guest Editorial

Excerpt from AFL-CIO President John Sweeney's Keynote Address

"MAKE YOUR VOICE HEARD!"

We've returned to Pittsburgh to continue our work of rebuilding and renewing our strength and to re-focus on our goals of building a new movement of American workers and creating a new voice for them and their families in their workplaces, in their communities, in their government and in the global economy.

We've created a new culture of organizing and begun devoting substantial new resources to organizing.

We've developed an exciting new program that is helping local unions across the country change in order to organize.

We're training more young people through our organizing institute and we're helping our unions take on entire industries and geographic areas.

The result is that we have more membership drives underway than at any time in my memory.

The UFW's strawberry campaign is helping 20,000 workers in California reap a harvest of human dignity.

The farm workers and the teamsters are working together to organize 15,000 fruit pickers and warehouse workers in the apple industry.

Fifteen of our construction unions have banded together in Las Vegas under the leadership of the Building and Construction Trades Department with a campaign aimed at 40,000 unrepresented workers.

HERE and SEIU are organizing hotel and hospital workers in Nevada and UNITE, SEIU, and IFTW are organizing low-wage workers in the South.

The steelworkers are re-organizing their members. AFNME and AFT are winning elections after election. The UAW is organizing parts manufacturers and 'WA is in the middle of an historic campaign to bring union representation to 9,000 new aircraft agents at US Airways!

Thank you to the help of every union and every worker in this room, I can report to you that when it comes to organizing, we're winning again and we're winning big.

Our membership numbers are beginning to creep back up because of more than 2,000 organizing victories won by workers like those who are with us on this stage.

But I have to tell you today that we must raise the bar even higher and set new standards and goals for ourselves in running and winning representation campaigns.

We have to continue to change and reach to find ways to organize on a bigger scale and at a faster pace because the employers we are confronting are raising the stakes by spending millions of new dollars to deny workers their legal right to organize, and because our enemies in the political arena are doing everything they can to choke off our new movement before it has a chance to live and breathe.

Everything we do is connected to organizing.

And so I want to challenge every local and national union represented here today to help us administer a new litmus test for every political candidate we support. And here are the three questions I want you to ask them:

"Will you vote to support the right of workers to organize to improve their lives?"

"Will you take a stand against employers who violate our laws and interfere with a worker's free choice to join a union?"

"When a worker is fired for union organizing, will you stand with us, will you march with us, will you go to jail with us?"

But we can't stop with just changing the way we choose elected officials if we are to rebuild our membership and our movement.

We also have to sink our roots back deeply into our communities and begin drawing power and support from the well spring of our democracy, from our local unions and our churches and synagogues and allies in the movement for women's and civil rights, because, in the final analysis, we must revitalize our movement from the ground up!

Organizing: we have to raise the bar, and change more and reach higher at the local level and in our communities as well as at the national level

Unity

The official monthly publication of the New York State AFL-CIO

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if we're going to get where we need to go.

But we can't stop there, because our jobs are still being shipped overseas and employers are using the pressure to demand more for less from workers in the jobs that remain.

It does no good to keep new members pouring through the front door of our unions while union jobs keep being thrown out the back!

And that is why I am asking everyone in this hall to join us this month as we send a signal that free trade isn't fair trade, by derailing that runaway legislative locomotive known as "fast-track".

And make no mistake, the battle over "fast-track" is important to every union in this room -- craft, industrial, service and public unions alike -- because trade agreements without worker rights and human rights and environmental standards undermine the wages and jobs of us all just as they damage the communities where we live and work.

September 22, 1997
Pittsburgh, Pennsylvania
AFL-CIO Constitutional Convention

LABOR "RALLIES" FOR VITALIANO FOR CONGRESS

On September 30th, hundreds of union members turned out for Labor's Kick-Off Rally in support of Eric Vitaliano's candidacy for Congress.

With 73,000 union households in the 13th Congressional District, covering Staten Island and South Brooklyn, the labor movement's voice will be heard on Election Day as voters choose between Assemblyman Eric Vitaliano (D) and Vito Fosella (R).

The rally jump-started labor's efforts in support of Assemblyman Vitaliano. In addition to attending rallies and various get-out-the-vote events, labor volunteers will participate in phone-bank operations and a "Labor-to-Neighbor" program where union members visit households of fellow union members.

At the rally, Mr. Vitaliano stressed his opposition to legislation giving President Clinton "fast-track" authority to extend and expand free trade agreements with other countries.

The AFL-CIO strongly opposes "fast-track" legislation. Stated Vitaliano, "One way America will prosper is not sending jobs out of America to countries outside of America. It is time that we stood up for American workers and American jobs, and that means saying no to fast-tracking more jobs out of America."

For further information on the **Labor-To-Neighbor** program, or to become a volunteer, contact Amy Ritchie or Mike Arendt at (718)447-4201.

Who will work for
working people?

Eric Vitaliano Will Work For Working People.

With Susan Molinari no longer in Congress, working families will choose her replacement on November 4th. Eric Vitaliano, a 49-year old Democratic State Assemblyman with 15 years experience, has stood up for working families with rare energy and commitment. Vitaliano has a 100% pro-labor voting record. His opponent, 32-year old Republican City Councilman Vito Fossella, has three years experience in the City Council. Fossella, a political extremist, plans to vote with Newt Gingrich on major issues. After carefully examining their records, the New York State AFL-CIO believes Eric Vitaliano will serve working families the best. You decide. Then vote on November 4th.

PENSION & SOCIAL SECURITY

Vitaliano will fight in Congress to protect Social Security and Medicare against Newt Gingrich's attempts to weaken or destroy them.

Eric Vitaliano will protect pensions by voting against allowing corporations to borrow your pension money for risky mergers and acquisitions.

Eric Vitaliano has been a leader in the fight to ensure that public employees be able to retire with a decent pension.

NYA 5082, 1992

ECONOMY

Vitaliano voted for "prevailing wage" laws that require companies doing business with the city to pay decent wages [1].

Eric Vitaliano fought to save jobs when IBM wanted to move hundreds of local jobs to upstate New York. He's committed to a strong local economy with good jobs at good wages [2].

NYA 1541, NY 77, Ch. 111

[2] *Kathleen New Service*, *Time*, 12/1/92

EDUCATION

Vitaliano delivered a record-breaking amount of aid to our schools so our kids could get good jobs [1].

Eric Vitaliano has won helping our kids 278 million dollars and more to relieve overcrowding in NYC schools by supporting the Partnership for Rebuilding America's Schools Act [2].

NY State Education Aid, 1992
NY State Education Aid, 1992

For fifteen years in the State Assembly, Eric Vitaliano has stood up for working families. Now he's ready to stand up for us in Congress, fighting for good schools, a strong local economy, and safe pensions. On November 4th, make your vote count.

NAFTA's DAMAGE TO NEW YORK

According to the Economic Policy Institute (EPI), a labor-supported think tank based in Washington, the North American Free Trade Agreement (NAFTA) has cost New York State more than 20,000 jobs, and made a big contribution to downward pressure on real wages of New York workers. Real wages went down 4.2 percent in New York in the 1993-1996 period.

Proponents of NAFTA, eager to expand it to Chile and other Latin American nations, have consistently used misleading job numbers to support their case. For example, the Clinton administration claims that 2.3 million jobs in the U.S. are supported by exports to Mexico and Canada, with 311,000 of them attributable to increased trade under NAFTA. It also claims that rising exports have created jobs in every state in the U.S.

The EPI's study allows a determination of NAFTA's impact on state-by-state employment. The analysis shows that, despite claims to the contrary, all 50 states and the District of Columbia have experienced a net loss of jobs under NAFTA. Exports are offset in every state by a larger loss of jobs due to imports. Net jobs lost range from a low of 621 jobs in Vermont to a high of 38,406 in California. Besides New York, other hard-hit states include Texas, Michigan, Ohio, Penn-

sylvania, Indiana, Illinois, North Carolina, Tennessee, Georgia and Florida, each with more than 10,000 jobs lost.



As for NAFTA's impact on workers' wages, even when displaced workers are able to find new jobs in the growing U.S. economy, they face a reduction in wages, with average earnings declines of over 16%. Their new jobs are likely to be in the service industry, the source of 112% of net jobs created in the U.S. since 1993 where average compensation is only 77% of that in manufacturing.

Median real wages in the United States dropped 4.0% between 1993 and 1996. NAFTA is not the only factor influencing wages, and several states (e.g., Indiana, Mis-

issippi, North Carolina, Tennessee) have experienced rising wages in spite of high job loss. Median wages, however, fell in 29 of the 50 states and in the District of Columbia; many states with high job losses attributable to NAFTA, especially Texas, Ohio, Oklahoma, and Alabama, experienced large drops in median wages.

The Clinton Administration has submitted fast-track legislation to Congress which fails to address the needs of working people here and abroad. This legislation is more restrictive of the president's ability to negotiate strong and enforceable worker rights and environmental standards in trade agreements than previous fast track authority.

There are no guarantees in the proposed fast track legislation that there will be any concrete progress on worker rights and environmental protections in trade agreements. In fact, this legislation undermines what little progress we have made to date.

The AFL-CIO has already begun a \$1 million broadcast advertising campaign to fight the fast track legislation, which would require that Congress vote yes or no on a negotiated agreement, without changing it.



"Prospering In America"

Labor's Radio Show On The Air

"Prospering In America", organized labor's radio show in New York State continues to air in Albany, Buffalo, New York City and the Hudson Valley.

If you would like to become a sponsor of the show or be included in some capacity, contact New York State AFL-CIO Director of Public Relations Mario Cilento at 212-777-6040.

The show airs on the following stations at these days and times:

- | | |
|------------------|--|
| New York... | WNYE-FM(91.5) - Tuesdays - 5:00 - 6:00 p.m. |
| Buffalo... | WXRL-AM(1300) - Saturdays - 2:00 - 3:00 p.m.
Mondays - 11:00 - 12:00 p.m. |
| Albany... | WTTM-AM(1300) - Sundays - 8:30 - 9:30 a.m. |
| Hudson Valley... | WGNY-AM(1200) - Saturdays - 10:00 - 11:00 a.m. |

The New York State AFL-CIO has been a sponsor and state-wide syndicator of "Prospering In America" for over three years. This is labor's show. We encourage all affiliates, large and small, to be a part of this groundbreaking endeavor.

Current sponsors include: NYS AFL-CIO; Civil Service Employees Association; United Auto Workers, Region 9; United Steelworkers of America, District 4; Int'l Union of Operating Engineers, Local 17; Public Employees Federation; NYC Central Labor Council; Building and Construction Trades Council of Greater New York; Amalgamated Bank; GHI; Office of Professional Employees Int'l Union; Int'l Brotherhood of Teamsters, Local 237; Int'l Association of Fire Fighters, Local 589; Newburgh Teachers Association, Local 2876; National Association of Letter Carriers, Branch 315; Hudson/Catskill Central Labor Council; Hudson Valley District Council of Carpenters; Laborers Int'l Union - Local 17; SUNY Empire State College School of Labor Studies; Union Labor Life Insurance; General Vision Services; and Amalgamated Life Insurance.

CONGRESS BATTLE OVER ISTEALOOMS



Before Congress adjourns in November it will reauthorize the nation's primary highway and transit law, the Intermodal Surface Transportation and Efficiency Act (ISTEA). The bill would provide billions of dollars of investment in highway and transit systems nationwide resulting in increased mobility for millions of Americans, improved economic growth and productivity and the creation and maintenance of millions of high-skill jobs.

New York State AFL-CIO President Edward J. Cleary, in April, gave testimony at U.S. Senate Field hearings on behalf of all AFL-CIO transportation and construction unions on the need for labor protections and

on New York State's right to its fair share of ISTEA monies. In New York State there is an enormous bipartisan, labor-management coalition around this view.

Reauthorization of ISTEA should keep several labor goals in focus. First, the bill must authorize adequate funding to ensure economic growth and job creation which will complement an expanding economy. The bill must also maintain the vital worker protections that the highway and transit programs have supported for decades. Laws like Section 13(c) of the Federal Transit Act and the Davis-Bacon Act have created a highly skilled workforce by offering workers in the transportation industry a measure of wage and job stability. These worker protections are critical to employees in the transportation industry and help ensure the smooth and efficient operation of the nation's transportation system.

Other priorities during reauthorization should include the promotion of safety on the nation's highways by strengthening highway safety standards, avoiding industry-specific safety exemptions, and obtaining from gutting hour-of-service regulations. Congress must also be certain to avoid "devolution" proposals which would eliminate any significant federal role in the administration of transportation programs and subject Americans to various state laws and policies that may be contrary to the national interest.

It is critically important that the Congress reauthorize ISTEA in the same bipartisan manner that led to the passage of the landmark Act in 1991. The labor movement is prepared to rally around a strong and fair surface transportation policy

LABOR'S DAY IN NEW YORK CITY *Huge Turnout For Labor Day Parade*

More than 300,000 working men and women marched up Fifth Avenue in New York City on September 6th to celebrate Labor Day.

The Labor Day Parade, hosted by the New York City Central Labor Council, was once again the largest in the nation as 101 floats and 78 marching bands entertained thousands of onlookers lining the streets of Manhattan.

AFL-CIO President John Sweeney led the parade as Grand Marshal.



Pictured left to right: Annie B. Martin, Trustee, NYC CLC; Margaret Samuels, Treasurer, NYC CLC; Ted Jacobsen, Secretary, NYC CLC; Edward J. Cleary, President, NYS AFL-CIO; Sandra Feldman, President, AFT; Brian McLaughlin, President, NYCCLC; Rudolph Giuliani, Mayor, New York City; and Edward Malloy, President, NYS Building and Construction Trades Council.

You have the power

to help families, kids,

those in need, right in your

neighborhood

The power of U



1-800-411-1WAY



"TAKING CREDIT FOR JOBS WELL DONE"

The New York State AFL-CIO hosted its first Union Label Trade Show from August 24-26th at the Four Points Hotel in Syracuse, New York.

The theme of the show, "Taking Credit For Jobs Well Done", focused on the impact of union labor and its importance to the economic stability of the state. It was designed to educate both union members and the general public about the contributions of union labor.

The trade show displayed the goods and services of more than 40 union exhibitors.

New York State AFL-CIO President Edward J. Cleary stressed the dedication and commitment of the most highly skilled workforce on earth in his opening remarks. Stated Cleary, "As members of the largest State Labor Federation in the country, it is our responsibility to lead the way for our brother and sister trade unionists, as well as our family, friends and communities - To let them know that a union made product and a union produced service is a result of the dedication and commitment of the most highly skilled workforce on earth.

"With two and a half million members in this state, it is our obligation to stand at the forefront of the initiative to spread the message that "To Look for the Union Label" is necessary, but understanding what that means, is just as important. That is why we are here this week. And those are the lessons we will be sharing and discussing throughout this conference.

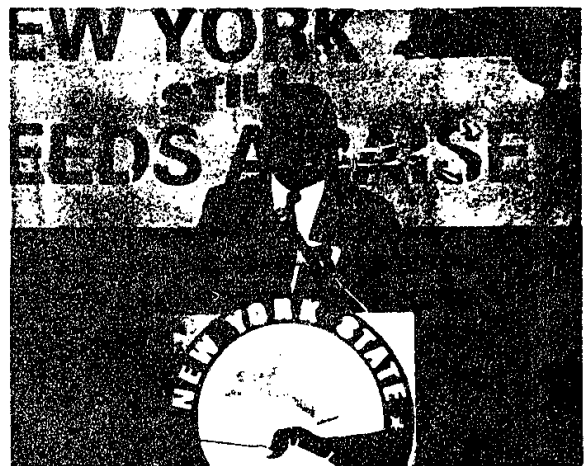
"To showcase our goods and services, and remind those who tend to accept our labor as a given, that our blood, sweat and tears have no price, and our determination and efforts have no boundaries, now or in the future."

Following President Cleary, AFL-CIO President and Keynote Speaker John Sweeney spoke of the importance of the union label, and how it has always stood for quality and integrity and the commitment to the ideal of a fair day's pay for an honest day's work.

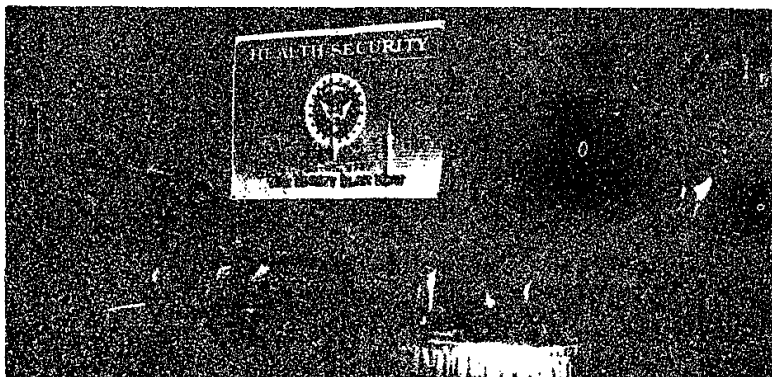
Also addressing the conference were Edgar Romney, Executive Vice President, UNITE; and Paul Bush, President, Finger Lakes Labor Council.



New York State AFL-CIO Industrial Division Director Ann Marie Polinsky with AFL-CIO President John Sweeney.

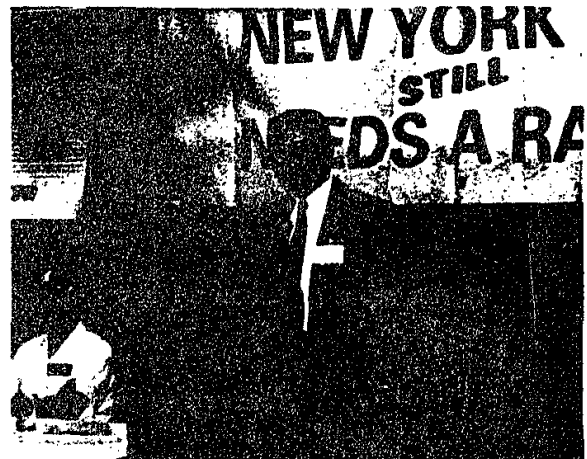


Edgar Romney, Executive Vice President, UNITE.



President Cleary introduces gathering.

From left to right: Al Davidoff, AFL-CIO State Director, New York; Reverend Coop; NYS AFL-CIO Secretary Treasurer Paul Cole; Paul Bush, Finger Lakes Labor Council; AFL-CIO President, John Sweeney; and President Cleary.



Paul Bush, President, Finger Lakes Labor Council.

STATE OF NEW YORK)

) ss.:

COUNTY OF NASSAU)

EDWARD J. GROARKE, being duly sworn, deposes and says:

That he is an attorney and counselor at law duly admitted and licensed to practice in the Courts of this State; that he is a member of the firm of COLLERAN, O'HARA & MILLS, attorneys for the respondent herein; that he has read the foregoing **RESPONSE** and knows the contents thereof; that the same are true to his own knowledge except as to the matters therein stated to be alleged upon information and belief and that to those matters he believes them to be true based on a review of the file and conversations with his clients.

That the reason this verification is made by your deponent and not by the respondent is that respondent does not reside within the County where your deponent has his office.

Edward J. Groarke
EDWARD J. GROARKE

Sworn to before me this
1st day of December, 1997

Lisa D. Albignano (McDonald)
NOTARY PUBLIC

LISA D. ALBIGNANO (McDonald)
Notary Public, State of New York
No. 5004507
Qualified in Nassau County
Commission Expires 11-16-98